

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

**TIMOTHY BERNARD EDWARD
PLAINTIFF,**

v.

**ANTHONY CLARK and BRETT
HOLMES,
DEFENDANTS.**

2:06-CV-298-MHT

ANSWER

COMES NOW Brett Holmes, a defendant in this action (hereafter, "Defendant"), and responds to the Complaint filed by Plaintiff in the above-styled cause and states as follows:

1. Plaintiff brings his suit under 42 U.S.C. § 1983 and claims that his constitutional rights were violated by Defendant.
2. Defendant admits that the Plaintiff was arrested on or about March 22, 2006.
3. Defendant denies the remaining allegations and inferences in the Plaintiff's Complaint.

DEFENSES

1. Plaintiff's Complaint separately and severally fails to state a claim upon which relief can be granted. Defendant did not deprive Plaintiff of any constitutional right to which he is entitled.

2. Defendant affirmatively pleads qualified immunity in his individual capacity.

3. Defendant affirmatively pleads state-agent immunity.

4. Defendant affirmatively pleads estoppel.

5. Defendant affirmatively pleads collateral estoppel.

6. Defendant affirmatively pleads The Rooker-Feldman doctrine.

7. Defendant reserves the right to add additional defenses upon a complete investigation of Plaintiff's claims, completion of any discovery allowed, and if any further pleading is required or allowed by the Court.

WHEREFORE, PREMISES CONSIDERED, Defendant requests this Court to enter judgment in his favor and grant unto him costs and attorney's fees pursuant to law and 42 U.S.C. § 1988.

Respectfully submitted this 19th day of July, 2006.

/s/ R. Todd Derrick
R. Todd Derrick (DER006)
Attorney for the Defendant, Brett Holmes

OF COUNSEL:

COBB, SHEALY, CRUM & DERRICK, P.A.
Post Office Box 6346
Dothan, Alabama 36302-6346
Telephone (334) 677-3000
Fax (334) 677-0030

CERTIFICATE OF SERVICE

I hereby certify that on this day, I electronically filed the foregoing with the Clerk of the Court using the CM/EFC system which will send notification of such filing to the following:

Scott Wayne Gosnell, Esquire
Webb & Eley
Post Office Box 240909
Montgomery, Alabama 36124
(334) 262-1850

I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/EFC participant:

Timothy Bernard Edward
Covington County Jail
290 Hillcrest Drive
Andalusia, Alabama 36420

This the 19th day of July, 2006.

/s/ R. Todd Derrick

R. Todd Derrick